

Notice of Allowability

Application No.

09/884,629

Examiner

Joanne Hama, Ph.D.

Applicant(s)

ST. GEORGE-HYSLOP ET AL.

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/20/07.
2. ☒ The allowed claim(s) is/are 1,3,5,6,24,28, and 39.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Applicant's After Final Amendment, filed November 20, 2007, has been entered.

Claims 2, 4, 8-23, 25-27, 29-37 are cancelled. Claims 1, 3, 7, 24, 28, 38, 39 are amended.

Claims 1, 3, 5-7, 24, 28, 38, 39 are under consideration.

Withdrawn Rejections

Claim Objection

Objection of claims 38 and 39 is withdrawn in light of the amendments set forth in the Examiner's amendment, see below.

35 U.S.C. § 112, 1st parag., New Matter

Applicant's arguments, see pages 8-9 of Applicant's response, filed November 20, 2007, with respect to the rejection of claims 1, 3, 5-7, 24, 28, 38, 39 have been fully considered and are persuasive. Applicant has amended the claims to indicate that a Syrian hamster prion protein gene promoter is used to drive expression of the transgene construct. The rejection of claims 1, 3, 5-7, 24, 28, 38, 39 has been withdrawn.

35 U.S.C. § 112, 1st parag., Written Description

Applicant's arguments, see pages 8-9 of Applicant's response, filed November 20, 2007, with respect to the rejection of claims 1, 3, 5-7, 24, 28, 38, 39 have been fully considered and are persuasive. Applicant has amended the claims to indicate that a Syrian hamster prion protein gene promoter is used to drive expression of the transgene construct. The rejection of claims 1, 3, 5-7, 24, 28, 38, 39 has been withdrawn.

35 U.S.C. § 112, 1st parag., Enablement

Applicant's arguments, see pages 10-12 of Applicant's response, filed November 20, 2007, with respect to the rejection of claims 1, 3, 5-7, 24, 28, 38, 39 have been fully considered and are persuasive. Applicant has amended the claims to indicate that a Syrian hamster prion protein gene promoter is used to drive expression of the transgene construct. The rejection of claims 1, 3, 5-7, 24, 28, 38, 39 has been withdrawn.

35 U.S.C. § 112, 2nd parag.

Regarding the rejection of claims 3, 7, 38, wherein the claims recite the limitation, "transgenic mouse" of claim 1, Applicant has amended the claims and the claims no longer recite that the mouse is transgenic. The rejection as it applies to this issue is withdrawn.

Regarding the rejection of claim 39, the claim is drawn to a transgenic mouse, and the claim upon which it depends, claim 24, is a method claim. Claim 39 has been amended and this issue is addressed below in the Examiner's amendment.

35 U.S.C. 102

The rejection of claim 27 is withdrawn as Applicant has cancelled claim 27.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. James Haley on December 20, 2007.

The application has been amended as follows:

1. Claim 7 has been cancelled.
2. Claim 1, line 1, the phrase, "or its progeny" has been inserted after the word, "mouse".
3. Claim 28 has been rewritten as follows:

A vector comprising a nucleotide sequence encoding a heterologous human amyloid precursor protein 695 (APP695) polypeptide wherein the lysine residue at position 670 is substituted by asparagine, the methionine residue at position 671 is substituted by leucine and the valine residue at position 717 is substituted by phenylalanine, and wherein said nucleotide sequence is operably linked to a Syrian hamster prion protein gene promoter.

4. Claim 38 was cancelled.
5. Claim 39 was rewritten as follows:

A C3H x C57 mouse whose genome comprises a transgene comprising a nucleotide sequence operably linked to a Syrian hamster prion protein gene promoter and encoding a heterologous human amyloid precursor protein 695 (APP695) polypeptide wherein the lysine residue at position 670 is substituted by asparagine, the methionine residue at position 671 is substituted by leucine and the valine residue at position 717 is substituted by phenylalanine, wherein said promoter directs central nervous system or neuronal expression of said transgene, wherein said mouse displays abnormal A β deposition in its central nervous system, and wherein said mouse is made by the method of claim 24.

The following is an examiner's statement of reasons for allowance:

The art of record indicates that the claimed mouse and the claimed method to make the mouse are unique for its combination of transgene and genetic background.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Hama, Ph.D. whose telephone number is (571) 272-2911. The examiner can normally be reached on Monday-Friday 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Paras can be reached on (571) 272-4517. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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JH

/Anne Marie S. Weh  /
Primary Examiner, A.U. 1633